

**UST Cleanup Program Task Force
Break-Out Session Reports
July 8, 2009**

Break-Out Session: RBCA Decision Making

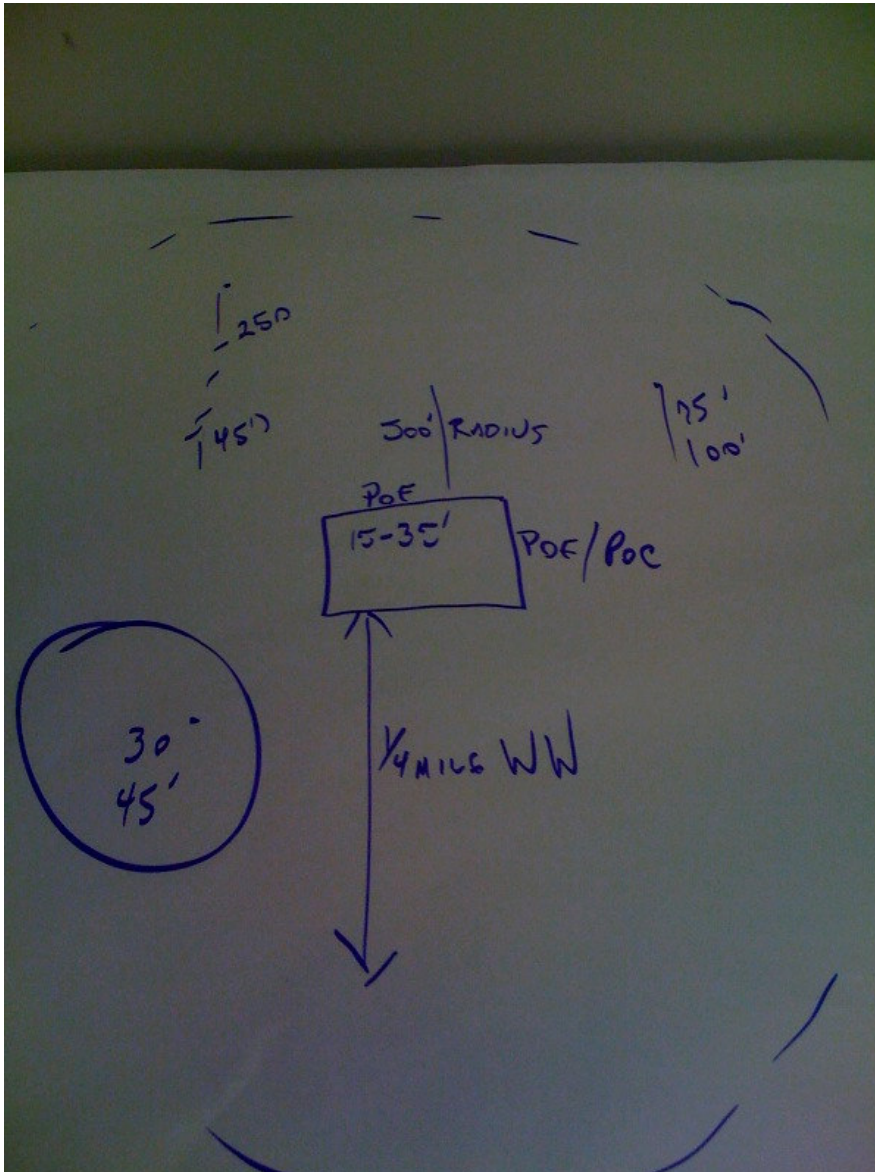
Participants: Gary Barker, Curt Stanley, Shay Wideman, Ray Kablokow, Donna Drogos

I. Existing Policies on Statutes

Current regulations and guidance prevent risk based decision making

- All/Most (GW 90%) is considered drinking water (water is receptor)
 - o Must clean to MCLs
 - o No such thing as "background" hydrocarbon
 - o Anti-degradation timing is open to interpretation (timeframe) state, not LOP or Reg.
- RBCA (ASTM) does not apply, Tier I only

II.



RBCA Decision Making (Continued)

III. GW Classification

1. CA

All bearing zones are beneficial

Beneficial = will contact receptor or is usable in most other states

CA = Water is the receptor

2. Other States

Beneficial use based on classification

- Yield
- TDS
- Depth
- Non HC constituents

IV. What Needs to Change to Have RBCA Decision Making?

1. GW being receptor

2. Reception should be based on:

- Ingestion
- Dermal
- Irrigation (surface)
- Inhalation
- Surface Water
- Eco.

3. TPH – Focus needs to be on key indicators, not TPH

V. Release Suspected Investigation

Release confirmed

- Soil
- GW

Within 45 days – release Inv. Report

- 500' Receptor *
- ¼ mile W well *

Assessment Phase → Preliminary Tier I/Tier II RBCA criteria for closure (*This does not currently exist)

- Onsite *
- Offsite if suspected

RBCA

- Utility
- VI
- Geotech site specific remediation options

- Development of rational guidance for timing as part of anti-degradation. The timing should be current and reasonable future use

- VI – need rational exclusion criteria using O₂ concentration (petroleum specific)

- Institutional controls - may need controls for remaining contamination if above unrestricted, perhaps tied into GeoTracker

Break-Out Session: Implementing the “Resolution”

Participants: Howard, Whitney, Ravi, Craig Johns

1. Existing “authorities” allow flexibility for use of Risk Informed Decision-Making at UST sites
2. There is a need for the State Board to formally establish the policy of Risk Informed Decision-Making @ all UST sites
3. Policy should take life as:
 - a. Statue
 - b. Regulation
 - c. Formal “Policy”
 - d. Guidance
4. State Board should direct staff (with input from 7-person expert Committee) to review ASTM 1739 and other state’s risk-based approaches and prepare specific recommendations for a CA – Risk Informed Decision-Making Policy
5. Monthly reports to Board Members (and public) of information coming in on GeoTracker re: existing sites (ED Report)
 - a. Data download
 - b. Content review

Break-Out Session: Site Closure Issues-Consistent Closure Processes

Participants: Ron Chiain, Dick Zipp, Stephen Hill, George Cook, Ken Williams, Gerold O'Regan, Bob Clark-Riddell, Damon Brown, Jennifer Hartman Rink, Chuck Headlee

1. Consistent process for closure – corrective action [e.g. Walter Pettit memo (expand into resolution?)]
2. Stakeholder milestone meeting (kickoff, milestone, etc.)
3. Numerical standards for use in closing ultra-low-risk sites
4. Low-threat & Low-Risk closure criteria (establishing & implementation)
5. Close pre-MTBE “Hot spot” cases
6. Consistent application of existing closure process
7. Elimination of “additional” or “new” requirements (moving target)
8. Early identification of closure obstacles &/or data gaps
9. GW basin should be considered as a receptor
10. Define point-of-compliance
11. Expansion of institutional controls (tracking historical sites) (e.g. Terradex) (e.g. deed restrictions)
12. Site prioritization to emphasize high-threat sites

Break-Out Session: Agency Accountability

Participants: Rose Coughlin, Louis Mosconi, M. Mccrink, G. Lockwood, Ron Chinn

1. Dispute Resolution

- Evaluate existing process for “dispute resolution”
- ID roadblocks/impediments
- Informal process/Ombudsman
- Existing formal process should consider cost benefits

2. Motivate Agencies

- LOPs/LIA
 - o Scorecard?
 - o No billing \leftrightarrow Productivity / Time frames met
 - o Justify LOPs Budget w/ trackable metrics
 - o LIAs/LOPs (Regional Areas) must work together
- RWQCB
 - o Team spirit v. adversaries
 - o Firm up “92-49” approaches

3. Training/Awareness (Consistency across State)

Standards WebCasts
Technical One Day/Week
Scorecard

4. “Empowerment” tools to allow Decision Makers (LOP/RWQCB) to make a decision that **sticks**

5. Allow RPs to identify or rectify where staff/expertise is needed

- additional &/or rotated

6. State Board pass resolution to give administrative authority to Exec Officer to “close sites” (NFA’s are all conditional)

7. Risk Management/Loss Prevention Approach

- Evaluate investment in additional work against other third party lawsuits or creating a potentially unsafe situation to advance a particular agenda (non environmental)
- “Return on Investment”
- “Cost feasibility

8. Other issues cloaked in “inadequate delineation” defense

- Delicate for RPs to flush out Fiefdom Builders
- Retaliation fears if RP gets involved in HR issues

9. Overriding Theme: Need to focus on a common set of goals well published/understood

Break-Out Session: Modify Policy

Participants: Peter Niemiec, Robert Trommer, Bob Schultz, Ravi Arulanantham, Marie McCrink, James Gionnopolis

- I. Benefit of Cleanup and Beneficial Use
 - 1) No benefit no cleanup
 - 2) (New) Beneficial (reconsider) use designation by RB (in connection w/UST releases)
 - 3) Revisit BUs w/reality in mind
 - 4) Must demonstrate future BUs
 - 5) Cleanup schedule match the time to BUs (direct process to figure this out) use as a way of dealing with beneficial use issues
 - precedents often not followed
 - regions use 5-10 years as “reasonable time”
 - difficulty of appeal
 - 6) Develop a draft resolution to be adopted by Board to address issues noted in 5 above.
- II. Develop resolution modifying 88-63 as applied to Petroleum UST release addressing shallow or perched GW with no current or reasonably foreseeable beneficial use.

The two recommended resolutions described above will only really be effective if state Board directs regions and LOPs to use risk-informed decision making to manage UST Sites.

- III. How to determine “reasonable time period” for site cleanup:
 1. Well permitting history
 2. Water agency plans
 3. Water agency plan